

STATEMENT OF PROFFERS (Revised 1-26-99)

Application for rezoning from commercial to multi-family property, PD-10-98
R.E. Bendl Property, York County, Virginia.

The undersigned applicant, Villa Development, L.L.C., a Virginia limited liability company (hereinafter called "Developer"), states that the following conditions are voluntarily proffered for the reclassification of property identified as the Bendl Tract. The Developer and the owner hereby voluntarily proffers that the development of the property proposed for reclassification under this application shall be in strict accordance with the conditions set forth below. Consent to the following proffers is granted by the current owners of the property, Mr. and Mrs. R. E. Bendl, as evidenced by their signatures hereto. Where exhibits are referenced in this proffer they are on file with the Planning Division, York County under Application PD10.

1. The project shall be constructed in general conformance to site plan dated 12/30/98 & revised 1-26-99 entitled Planned Development.
2. The project, which shall encompass a 21.412 acre portion of the Bendl Tract shall be designed for, and constructed for, four (4) basic categories of occupants; active retirees/seniors, single again individuals, working couples without children and physically challenged individuals.
3. All living units shall be adaptable at time of construction, to the individually physically challenged owner/resident on a room by room basis, which may include, but not be limited to, motion sensor switches, lower kitchen cabinets, grab-bars in the bathrooms, raised toilet in the master bath, lowered light switches, lowered thermostat, ramp from garage and other amenities as needed. Ability to pay by the owner/resident will determine the individual amenities to be provided.
4. In order to meet York County's ten percent (10%) requirement for recreational amenities, the following shall be constructed:

On or before the issuance of the twenty-fifth (25th) certificate of occupancy in the project, or by the end of the fifth (5th) year from the start of construction, whichever date occurs earlier, the following list of recreational amenities shall be completed:

- A. Walkway through 2.3 acre area located in the southwest corner of the project with benches and a gazebo. An additional bridge providing access to the Newport News waterworks site to access their trail system as referenced in the letter attached and labeled Exhibit 5.
- B. Swimming pool, 25 feet by 40 feet (1000 square feet) in accordance with the attached site Plan and photograph labeled as Exhibits 8 and 10.
- C. The shuffleboard court and a golf putting green shall be constructed within the area Designated for the pool/clubhouse area.
- D. A grassy fenced area around the pool which shall contain approximately 13,068 square feet.

- E. A 2,200 square foot (or more) clubhouse shall be constructed in general compliance with the one as shown on Exhibit 2, within an exterior of stone or brick and wood or vinyl or composition materials containing the following amenities:
 - 1. Kitchen
 - 2. Bathrooms for both sexes;
 - 3. Exercise room with quality exercise equipment;
 - 4. Community room with gas fireplace and other amenities for the residents;
 - 5. Office space for Homeowners Association; and
 - 6. Lounge chairs and tables with chairs around the pool area.
- F. Developer covenants that: The common area recreational amenities shall not include swing sets and other playground equipment, play fields or other facilities primarily associated with children's activities.
- G. In order to develop total recreational space of 120,225 square feet or more, which shall be 14.1% or more of the total project, the project shall include the following:
 - 1. Clubhouse/pool area in excess of 20,037 square feet (13,068 square feet or more of grassy area);
 - 2. A natural area with a walkway, benches and gazebo in excess of 100,188 square feet; and
 - 3. Sidewalks throughout the development in excess of 7,000 square feet.
- H. All buildings shall be constructed in general conformance to the EPMARK building plans referenced in the accompanying photographs (Exhibits 1, 2, 3, and 4) with exteriors of brick or stone and wood or vinyl or composition materials. The Developer reserves the right to make adjustments in the floor plans of the accompanying plan (Exhibit 10) in accordance to the particular unit built. Attached are drawings of EPMARK projects that are in two series, the Cathedral and Classic with floor plans to choose from; Abby, Canteberry, Chateau, and Villa (Exhibits 6 and 7). Construction is based on sales demand. Also, minor adjustments can be made for aesthetic reasons as long as the units generally conform to exhibits submitted #1- 2 - 3 and 4.
- I. That the maximum gross density to be constructed shall not exceed 5.9 units per acre on an aggregate basis.
- J. The Developer shall prepare homeowner association declaration and bylaws which shall include the following requirements:

1. Personal Property. Items Prohibited

- a. Swing sets; and
- b. Outdoor play equipment associated with children's activities.

2. No boats, trailer, motor homes, or commercial vehicles may be parked within the the development except on an overnight basis (24 hours) for loading, unloading, or providing service.

3. Swimming pool – clubhouse, The swimming pool – clubhouse is for the exclusive use of the residents and their guests.

5. A temporary entrance/exit to the project site shall be constructed over the applicants' own property from the site to Rt. 17 (As shown on the site plan).

6. If Burt's Road is re-aligned, the temporary entrance to the project directly to Rt. 17 shall be abandoned and the new entrance shall be located directly off the re-aligned Burt's Road.

7. The applicant shall reserve and grant, without change, when needed, to VDOT sufficient Right of Way over its property for the construction of the realigned Burts Road – Grafton Drive that is in York County's 6 year secondary road plan.

8. If the Burts' Road – Grafton Drive re-alignment is removed from the County's 6 year secondary road plan, and is not constructed, the developer shall, if feasible, and if it owns sufficient land to do so, shall construct a entrance-exit for the project onto a secondary road other than the "temporary" entrance to the project from Route 17. This requirement shall expire if construction of the Burt's Road – Grafton Drive re-alignment is not commenced by 7-1-2004.

VILLA DEVELOPMENT, L. L. C., a Virginia limited liability company

By: Lowell M. Spence

Its: MANAGER

Robert E. Bendl
Mr. R. E. Bendl, Owner

Gloria M. Bendl
Mrs. R. E. Bendl, Owner

PROPOSED PROFFERS BY OWNER FOR APPLICATION FOR
PD-10-98 AND 13-01, PROPERTIES OF
RAINBROOK VILLAS, L.L.C. AND VILLA DEVELOPMENT, L.L.C.
(Revised 4/3/01)

The undersigned applicant, Rainbrook Villas, L.L.C., a Virginia limited liability company and Villa Development, L.L.C., a Virginia limited liability company (hereinafter called "Owners"), states that the following conditions are voluntarily proffered for the development known as Rainbrook Villas, consisting of: (i) the 112 unit existing development on 19.476 acres located on the westernmost portion of the tract located west of the proposed Burts Road located on tax map 28-18 (hereafter referred to as "Original Rainbrook Villas"); and (ii) the 56 unit development on approximately 10.739 acres adjacent thereto, and located on tax map 28-81, 82, 82B, 82C, 82D and 83, (hereafter referred to as "Rainbrook Villas South") consisting altogether of 168 units on approximately 30.223 acres (hereafter referred to together as "Rainbrook Villas"). The Owner hereby voluntarily proffers that the development of Rainbrook Villas shall be in strict accordance with the conditions set forth below.

Moreover, these proffers shall supersede those proffers and conditions contained in and referenced in Ordinance 099-3 adopted by the Board of Supervisors on March 17, 1999 and applicable to a portion of the subject property.

This rezoning request is for a portion of Rainbrook Villas and as such, residents purchasing in any portion of Rainbrook Villas shall be bound by all the original proffers as modified hereby. All recreation facilities in the existing portion of the Original Rainbrook Villas are to be available for use by all owners in Rainbrook Villas.

1. The project shall be constructed in general conformance to site plan entitled "Preliminary Plan #11, Additional Land of Rainbrook Villas," by The Sirine Group, Ltd., dated February 28, 2001, which is occasionally referred to hereafter as "the Site Plan."
2. Rainbrook Villas shall be designed for, and constructed for, four (4) basic categories of occupants; active retirees/seniors, individuals who are single, divorced, separated or widowed, working couples without children and physically challenged individuals.
3. All living units, with the exception of the two story Chateau unit, shall be adaptable at time of construction, to the individually physically challenged owner/resident on a room by room basis, which may include, but not limited to, motion sensor switches, lower kitchen cabinets, grab-bars in the bathrooms, raised toilet in the master bath, lowered light switches, lowered thermostat, ramp from garage and other amenities as needed. Ability to pay by the owner/resident will determine the individual amenities to be provided.
4. In order to develop total recreational space of 3.455 acres or more, which shall be 11.4% or more of Rainbrook Villas, the development shall include the following:
 - A. Clubhouse/pool area in excess of 20,037 square feet;
 - B. A natural area with a walkway, benches and gazebo in excess of 100,188 square feet;
 - C. 30' x 40' recreational building with restrooms;
 - D. A rock pond with fountain;
 - E. Putting greens and/or horseshoes pits; and
 - F. Picnic benches.

On or before the issuance of the twenty-fifth (25th) certificate of occupancy in Original Rainbrook Villas, or by the end of the fifth (5th) year from the start of construction of the Original Rainbrook Villas, whichever date occurs earlier, the following list of recreational amenities shall be completed:

- G. Walkway through 2.3 acre area located in the southwest corner of the Original Rainbrook Villas project with benches and a gazebo, as well as an additional bridge providing access to the Newport News waterworks site to access their trail system.
- H. Swimming pool, 25 feet by 40 feet (1000 square feet) in accordance with the site plan.
- I. The shuffleboard court and a golf putting green shall be constructed within the area designated for the pool/clubhouse area.
- J. A grassy area around the pool which shall contain approximately 13,068 square feet.
- K. A clubhouse of approximately 2200 square feet or more, with an exterior of stone or brick and wood or vinyl or composition materials containing the following amenities:
 - 1. Kitchen
 - 2. Bathrooms for both sexes;
 - 3. Exercise room with quality exercise equipment;
 - 4. Community room with gas fireplace and other amenities for the residents;
 - 5. Office space for Homeowners Association; and
 - 6. Lounge chairs and tables with chairs around the pool area.
- L. Developer covenants that: The common area recreational amenities shall not include swing sets and other playground equipment, play fields or other facilities primarily associated with children's activities.

On or before the issuance of the one hundred thirty-second (132nd) certificate of occupancy in Rainbrook Villas, or by the end of the fifth (5th) year from the start of construction of Rainbrook Villas South, whichever date occurs earlier, the following list of recreational amenities shall be completed:

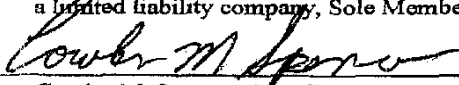
- M. 30' x 40' recreational building with restrooms,
 - N. A rock pond with fountain,
 - O. A putting green or horseshoe pit.
 - P. Picnic benches.
5. Owner proffers to construct sidewalks as shown on the site plan for Original Rainbrook Villas.

6. Owner proffers that all buildings shall be constructed in general conformance to the patented EPMARK Classic and Cathedral Series building plans with exteriors of brick or stone and wood or vinyl or composition materials as depicted in materials which have been provided to the County. Also, minor adjustment to the EPMARK Series Plans can be made for code or aesthetic reasons as long as the units generally conform to the EPMARK building plans. Actual Series will be constructed based on individual series demand.
7. The maximum gross density to be constructed in shall not exceed 5.6 units per acre on an aggregate basis.
8. The Developer shall prepare and record a homeowner association declaration and bylaws which includes the following requirements:
 - A. Personal Property. Items prohibited
 - (1) Swing sets; and
 - (2) Outdoor play equipment associated with children's activities.
 - B. No boats, trailer, motor homes, or commercial vehicles may be parked within the development for more than 24 hours and only if for loading, unloading, or providing service.
 - C. The swimming pool and clubhouse shall be for the exclusive use of the residents and their guests.
9.
 - A. A temporary entrance to the Original Rainbrook Villa site has been constructed over the applicant's own property (Parcel 29-18) from the site to Route 17 as shown on the Site Plan.
 - B. A second temporary entrance to the Rainbrook Villa South site shall be constructed over the owner's own property (Parcel 29-81) from the site to the existing Burts Road as shown on the Site Plan.
 - C. The temporary entrance(s) that are approved will remain in place until a permanent entrance is constructed in accordance with paragraph 9.
10.
 - A. At such time as Burts Road is realigned, the temporary entrance over Parcel 29-18 for the Original Rainbrook Villas, which is located on Route 17, shall be abandoned and the permanent entrance shall be constructed directly on the realigned Burts Road in a manner to be approved by the County and VDOT as shown on Site Plan.
 - B. At such time as Burts Road is realigned, the temporary entrance over Parcel 29-81 for Rainbrook Villas South which is between the old and the new Burts Road shall be abandoned and the permanent entrance shall be constructed directly on the realigned Burts Road in a manner to be approved by the County and VDOT as shown on the Site Plan. In addition, when the second temporary entrance is abandoned, the Owners will apply for rezoning of the portion of Parcel 29-81 between the old and the new Burts Road consistent with the zoning of the parcels to the north.

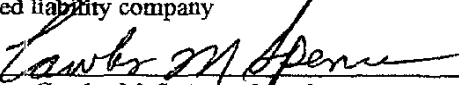
11. Owner proffers not to develop the property between Original Rainbrook Villas and Route 17 (Parcel 29-18, the Original Rainbrook Villas) until such time as the new re-aligned Burts Road is completed. If the proposed re-alignment of Burts Road has not commenced by December 31, 2006 this proffer will expire.
12. Owner agrees to voluntarily donate to VDOT both sufficient right of way for the re-alignment of Burts Road between the existing Rainbrook Villas and the existing George Washington Memorial Highway as shown on the initial 112 unit site plan, and the land located in the dedicated right of way as shown on the Site Plan for the realignment of Burts Road contiguous to the New Rainbrook Villas being rezoned and currently owned by Villa Development L.L.C. Should the VDOT plan to realign Burts Road require the removal of the house located at 118 Burts Road, it is understood that nothing will prevent Owner from seeking compensation from VDOT for the fair market value of the land and all improvements thereon less the fair market value of the land donated.
13. If Burts Road-Grafton Drive re-alignment is removed from the County's six year secondary road plan and is not constructed, the Owner shall, if feasible, and if it owns sufficient land to do so, construct an entrance/exit for the project onto a secondary road other than the temporary entrance to the project from Route 17. This requirement shall expire if construction of the Burts Road-Grafton Drive realignment has not commenced by December 31, 2006.
14. These proffers shall supplement earlier proffers dated 1-26-99 and referenced in Ordinance 099-3 to the extent not inconsistent with such proffers, and shall supersede the earlier proffers only to the extent that they are inconsistent.

RAINBROOK VILLAS, L.L.C., a Virginia
limited liability company

By: VILLA DEVELOPMENT L.L.C., a Virginia
a limited liability company, Sole Member

By: 
Cowles M. Spencer, Member

VILLA DEVELOPMENT L.L.C., a Virginia
limited liability company

By: 
Cowles M. Spencer, Member

cc: Mr. Quintin Elliot
VDOT Williamsburg Residency